

**RULES
OF
THE TENNESSEE AUCTIONEER COMMISSION**

**CHAPTER 0160-1
REGULATIONS OF AUCTIONEERS**

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0160-1-.01 DUTIES OF AUCTIONEER.

The Auctioneer shall be responsible for the advertising and management of the sale and account for all proceeds therefrom and shall, over his signature, issue a closing statement to the seller or sellers.

Authority: T.C.A. §62-1906. **Administrative History:** Original rule certified June 7, 1974.

0160-1-.02 UNLAWFUL REBATES.

It shall be unlawful for any person licensed under the provision of this act to rebate any part of his commission to any person or persons not holding real estate license or apprentice auctioneer license or auctioneer license.

Authority: T.C.A. §62-1906. **Administrative History:** Original rule certified June 7, 1974.

0160-1-.03 REPEALED.

Authority: T.C.A. §62-1906. **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 18, 1976; effective September 17, 1976.

0160-1-.04 REPEALED.

Authority: T.C.A. §62-1906. **Administrative History:** Original rule certified June 7, 1974. Repealed by Public Chapter 261; effective July 1, 1983.

0160-1-.05 PUBLICATION OF NAME.

- (1) All advertising of an auction sale must be made in the name of the licensee who shall bear responsibility of the sale to the seller, general public and auctioneer commission.
- (2) All advertising of an auction sale by an auction firm not owned by a licensed auctioneer shall include the name of its sponsoring auctioneer, and the auctioneer shall attend all auction sales.

(Rule 0160-1-.05, continued)

Authority: T.C.A. §62-19-106. **Administrative History:** Original rule certified June 7, 1974. Amendment filed August 18, 1976; effective September 17, 1976. Amendment filed March 15, 1993; effective April 29, 1993.

0160-1-.06 DATES OF EXAMINATIONS. The Commission shall, in conjunction with the current contractor, administer the examination on the dates provided by the contractor five (5) days a week with the exception of holidays.

Authority: T.C.A. §62-19-106(b). **Administrative History:** Original rule certified June 7, 1974. Amendment filed August 18, 1976; effective September 17, 1976. Amendment filed March 1, 1978; effective March 31, 1978. Repeal and new rule filed January 30, 2008; effective April 14, 2008.

0160-1-.07 REPEALED.

Authority: T.C.A. §§61-1906 and 62-19-106. **Administrative History:** Original rule certified June 7, 1974. Repeal filed February 28, 2001; effective May 14, 2001.

0160-1-.08 REPEALED.

Authority: T.C.A. §61-1906 and 62-19-106(b). **Administrative History:** Original rule certified June 7, 1974. Repeal filed January 30, 2008; effective April 14, 2008.

0160-1-.09 ASSISTANTS. Any person acting as ringman, or bid spotter, at personal property sales, such as cattle sales, auction houses, auto sales, and real estate sales shall not be required to be licensed under this act and shall be directly responsible to the auctioneer in charge. The principal auctioneer shall be responsible for that person's conduct and representation.

Authority: T.C.A. §§62-19-102 and 61-19-106(b). **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed January 30, 2008; effective April 14, 2008.

0160-1-.10 AUCTION SCHOOLS.

- (1) In order to be approved by the Auctioneer Commission (for the purpose of T.C.A. § 62-19-111), an auction school must:
 - (a) execute an application on the form prescribed by the Commission, accompanied by a description of the school's curriculum;
 - (b) have a permanent business location;
 - (c) conduct a minimum of eighty (80) hours of instruction, including at least forty (40) hours under the supervision of a licensed auctioneer with at least five (5) years of experience;
 - (d) for applicants applying for upgrade from apprentice to auctioneer, conduct a minimum of thirty (30) hours of instruction, including at least fifteen (15) hours instruction given by a licensed auctioneer with at least five (5) years of experience;
 - (e) maintain a pass/fail grading system, with a supplementary "good/fair/poor" designation;
 - (f) provide instruction in public speaking, bid calling, sales management, advertisements, contracts, closing statements, license law, uniform commercial codes, bulk sales and firearms;
 - (g) demonstrate every two (2) years that it has met the requirements of the Tennessee Higher Education Commission (or the equivalent thereof in another state).

(Rule 0160-1-.10, continued)

Authority: T.C.A. §§62-19-106(b) and 62-19-111. **Administrative History:** Original rule filed May 12, 1982; effective June 28, 1982. Amendment filed November 23, 1988; effective January 7, 1989. Repeal and new rule filed January 30, 2008; effective April 14, 2008.

0160-1-.11 CIVIL PENALTIES.

- (1) The Commission may, in a lawful proceeding respecting licensing (as defined in the Uniform Administrative Procedures Act), in addition to or in lieu of any other lawful disciplinary action, assess civil penalties for violations of statutes, rules, or orders enforceable by the Commission in accordance with the following schedule:

Violation	Penalty
T.C.A. §62-19-112 (b)	0-\$1,000
(Obtaining license by false or fraudulent representations)	
T.C.A. §62-19-112 (b) (1)	0-\$1,000
T.C.A. §62-19-112 (b) (2)	0-\$1,000
T.C.A. §62-19-112 (b) (3)	0-\$1,000
T.C.A. §62-19-112 (b) (4)	0-\$1,000
T.C.A. §62-19-112 (b) (5)	0-\$1,000
T.C.A. §62-19-112 (b) (6)	0-\$1,000
T.C.A. §62-19-112 (b) (7)	0-\$1,000
T.C.A. §62-19-112 (b) (8)	0-\$1,000
T.C.A. §62-19-112 (b) (9)	0-\$1,000
T.C.A. §62-19-112 (b) (10)	0-\$1,000
T.C.A. §62-19-112 (b) (11)	0-\$1,000
T.C.A. §62-19-112 (b) (12)	0-\$1,000
T.C.A. §62-19-112 (b) (13)	0-\$1,000

- (2) The Commission's administrative director and investigator, acting on behalf of the Commission, may issue citations to unlicensed individuals or entities in accordance with T.C.A. § 62-19-126 and the following schedule:

Violation	Penalty
T.C.A. § 62-19-102 (a) (1)	\$50-\$2,500
T.C.A. § 62-19-102 (a) (2)	\$50-\$2,500
T.C.A. § 62-19-102 (b)	\$50-\$2,500
T.C.A. § 62-19-125 (a)	\$50-\$2,500

- (3) In determining the amount of any penalty to be assessed pursuant to this rule, the Commission may consider such factors as the following:
- (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (b) The circumstances leading to the violation;
 - (c) The severity of the violation and the risk of harm to the public;
 - (d) The economic benefits gained by the violator as a result of non-compliance; and
 - (e) The interest of the public.

Authority: T.C.A. §§56-1-308, 62-19-106, 62-19-116, 62-19-126, and Public Acts of 1989 Chapter 389, Section 1. **Administrative History:** Original rule filed August 26, 1986; effective November 29, 1986.

(Rule 0160-1-.11, continued)

Amendment filed February 16, 1990; effective April 2, 1990. Amendment filed February 28, 2001; effective May 14, 2001.

0160-1-.12 APPRENTICES - SPONSORS - SUPERVISION.

- (1) In order to be permitted to sponsor an apprentice auctioneer, an auctioneer must have been licensed for at least two (2) years and be in good standing with the Commission.
- (2) Any apprentice auctioneer so sponsored shall be under the direct supervision of his/her sponsor or under the direct supervision of his/her non-sponsoring employer auctioneer if acting pursuant to paragraph (8).
- (3) The number of apprentice auctioneers that an auctioneer may sponsor at any one time shall be limited to three
- (4) A sponsoring auctioneer is to be responsible and accountable for the auctioneering activities of any apprentice auctioneer associated with such auctioneer.
- (5) All sponsoring auctioneers shall reside in the same state as his/her apprentice auctioneer(s). However, in appropriate cases, upon good cause being shown, the Commission may waive this rule.
- (6) Any legal document relative to conducting, or offering to conduct, any auction shall be executed by an auctioneer, or by an apprentice auctioneer with the approval of his/her sponsor so noted on the document.
- (7) Any advertisement placed by an apprentice auctioneer must clearly and conspicuously identify the apprentice auctioneer as such, contain his/her license number, and the name and license number of his/her sponsor's firm.
- (8) An apprentice auctioneer may be employed by a licensed auctioneer who is not designated as the apprentice's sponsor if the following terms and conditions are met:
 - (a) The apprentice auctioneer must first notify the commission of such employment on a form approved by the Commission. The form shall include the written permission of the apprentice's sponsor and shall contain the notarized signatures of the apprentice auctioneer, the sponsoring auctioneer and the non-sponsoring employer auctioneer;
 - (b) The non-sponsoring employer auctioneer must be currently licensed as an auctioneer in the State of Tennessee and must be in good standing with the Commission;
 - (c) All non-sponsoring employer auctioneers shall reside in the same state as the apprentice auctioneer(s). However, in appropriate cases, upon good cause being shown, the Commission may waive this rule; and
 - (d) Any violation of this rule shall subject the apprentice auctioneer, the sponsoring auctioneer and/or the nonsponsoring employer auctioneer to disciplinary action by the Commission.
- (9) An apprentice:
 - (a) may not execute a contract to conduct an auction without the approval of his/her sponsor noted on the document, but he/she may sign a contract in order to indicate he/she procured the client and the auction.

(Rule 0160-1-.12, continued)

- (b) may not sign a closing statement or have an escrow or trust account in his/her name as a depository for auction proceeds, but he/she may take part in the closing and settlement proceedings of an auction. An apprentice's sponsoring auctioneer is responsible for keeping the account of and dispersing money received at an auction.
 - (c) may not call bids at an auction without the presence of his/her sponsor. An apprentice's sponsor is responsible for all auctioning activities of the apprentice and must be physically present to monitor those activities.
- (10) An apprentice shall provide the Tennessee Auctioneer Commission with sufficient proof that he/she has been active during his/her apprenticeship. Each apprentice shall use a log as a means to keep track of his/her experience during the two (2) year apprenticeship period. The log shall be completed and submitted with his/her application for an auctioneer license, at the conclusion of the apprenticeship.
- (a) Points. An auction is divided into eight (8) parts. Each part has a point value assigned to it. Performance of any of the activities listed on the Point System Chart earns the apprentice the corresponding points. The details of these activities and their point values shall be included in an apprentice's log. During the two (2) year apprenticeship period, an apprentice shall obtain a minimum of 1,000 points in order to be eligible for an auctioneer license. This is the substantial equivalent of working five (5) auctions from beginning to end.
 - (b) Sponsor's Signature. A sponsoring auctioneer shall acknowledge each auction activity recorded in his/her apprentice's log, by signing and dating in the appropriate space after each entry of activity.
 - (c) Accumulating Points. An apprentice should make every effort to obtain and log experience in all phases of the auction business. An apprentice shall not submit a log with all of his/her experience concentrated in fewer than four (4) auction activities. The purpose of the log is to indicate to the Commission that the apprentice has been fully exposed to the auction business and has participated in as many areas of the auction process as possible.

(11) POINT SYSTEM CHART

ACTIVITY	DESCRIPTION	POINTS
CONTRACT	Complete and execute a contract with a seller (In accordance with subparagraph (9)(a) of this rule).	20
ADVERTISING	Write inventory/create a newspaper ad/erect signs.	20
SALE PREPARATION	Prepare inventory for an auction or set up auction equipment.	20
BID CALLING	Call bids at an auction.	60
BID ASSISTANT/ WORKING RING	Work the ring at an auction for at least one (1) hour.	40
CLERKING/ CASHIERING	Clerk at least 30% of an auction or collect money for at least 30% of an auction.	20

(Rule 0160-1-.12, continued)

CLOSING	Participate in balancing auction proceeds and assist in preparation of a closing statement.	20
TOTAL POINTS		200

Authority: T.C.A. §§62-19-106, 62-19-106(b), 62-19-111, 62-19-112(b)(7), and Public Acts of 1997 Chapter 91, 5. **Administrative History:** Original rule filed November 23, 1988; effective January 7, 1989. Amendment filed March 15, 1993; effective April 29, 1993. Amendment filed August 5, 1998; effective October 19, 1998. Amendment filed February 28, 2001; effective May 14, 2001.

0160-1-.13 REPEALED

Authority: T.C.A. §§62-19-106(b) and 62-19-116(c)(2). **Administrative History:** Original rule filed April 7, 1989; effective July 29, 1989. Repealed August 5, 1998; effective October 19, 1998.

0160-1-.14 FEES

- (1) Each application for licensure shall be accompanied by a non-refundable application fee of fifty dollars (\$50.00).

- (2) Fees for the issuance of initial licensure and the renewal thereof shall be as follows:

Auctioneer License.....	one hundred seventy-five dollars (\$175.00)
Apprentice Auctioneer License.....	one hundred twenty-five dollars (\$125.00)
Principal Office Firm License.....	one hundred twenty-five dollars (\$125.00)
Gallery License.....	one hundred seventy-five dollars (\$175.00)
Auction Firm Branch License.....	seventy-five dollars (\$75.00)
Gallery Branch License.....	seventy-five dollars (\$75.00)
Auctioneer Education and Recovery Account Fee.....	fifty dollars (\$50.00)

Licenses are valid for two (2) years from the date of their issuance and may be renewed within the sixty (60) days immediately preceding their date of expiration.

- (3) A licensee shall pay a one-time fee of one hundred fifty dollars (\$150.00) for the retirement of an auctioneer or apprentice auctioneer license. An application for activation of a retired license shall be accompanied by an application fee of one hundred dollars (\$100.00), the applicable license fee and the Auctioneer Education and Recovery Account fee.
- (4) An applicant who fails a license examination shall pay a fee as set by contract with the Auctioneer Commission license examination administrator for each subsequent re-examination.
- (5) The fee for a replacement license and pocket card is thirty-five dollars (\$35.00).
- (6) Any notification of change of information pursuant to rule 0160-1-.24 made to the Commission more than sixty (60) days after the effective date of the new information shall result in a penalty of one hundred dollars (\$100.00).

Authority: T.C.A. §§62-19-106(b), 62-19-111 and 62-19-116(c). **Administrative History:** Original rule filed July 14, 1989; effective August 28, 1989. Amendment filed March 15, 1993; effective April 29, 1993. Amendment filed August 5, 1998; effective October 19, 1998. Amendment filed February 28, 2001; effective May 14, 2001. Repeal and new rule filed January 30, 2008; effective April 14, 2008.

0160-1-.15 NONRESIDENT AUCTIONEER

- (1) Disciplinary sanctions against a nonresident licensee imposed by the licensee's home state or any other state shall be grounds for disciplinary action by the Commission in accordance with T.C.A. § 62-19-112 and these rules.
- (2) Each application for a nonresident auction firm license shall be accompanied by documentation from a bank that includes the name and address of the bank, the account number of the nonresident auction firm's escrow account and the signature and title of the bank officer issuing the documentation. The documentation shall further include a statement signed by an owner or other appropriate member of the auction firm, authorizing the Tennessee Auctioneer Commission, or its agents, to audit the escrow account.

Authority: T.C.A. §§62-19-106, 62-19-112, 62-19-117, and Public Acts of 1990, Chapter 1026, Section 4. **Administrative History:** Original rule filed April 16, 1992; effective May 31, 1992. Amendment filed February 28, 2001; effective May 14, 2001.

0160-1-.16 NON-AUCTIONEER FIRM LICENSE APPLICATION.

- (1) Upon application to the Commission for an auction firm license or renewal thereof by any business entity, including a limited liability company, corporation or partnership not engaged in the auction business as the entity's principal business, the applicant shall designate a natural person who is an employee, owner, shareholder, partner, or member of the entity, who meets the applicable requirements of T.C.A. § 62-19-111 and who will be responsible for such license.
- (2) An Auction firm as described in paragraph (1), must have at least one (1) licensed auctioneer to conduct and call auctions for the firm at each location involved in auction sales.

Authority: T.C.A. §§62-19-102 and 62-19-106. **Administrative History:** Original rule filed February 28, 2001; effective May 14, 2001.

0160-1-.17 CHARITY AUCTION EXEMPTION.

- (1) An individual or entity may claim an exemption from licensure under T.C.A. § 62-19-103(4) as it relates to auctions on behalf of a political party, church, or charitable corporation or association, provided that any such individual or entity providing auction services shall not be compensated, and 100% of the net proceeds of such sale shall be donated to such political party, church, or charitable organization or association.
- (2) Any organization registered with the Secretary of State as a charitable corporation as required by T.C.A. § 48-101-504(a), or exempt from the registration requirement pursuant to T.C.A. § 48-101-502, or any organization granted an exemption from taxation pursuant to the provisions of 26 U.S.C. § 501(c)(3) of the Internal Revenue Code shall be considered a charitable corporation or association for the purpose of T.C.A. § 62-19-103(4).

Authority: T.C.A. §§62-19-103 and 62-19-106. **Administrative History:** Original rule filed February 28, 2001; effective May 14, 2001.

0160-1-.18 ELECTRONIC MEDIA AUCTION LICENSE REQUIREMENT.

- (1) Any electronic media or computer-generated auction originating from within Tennessee shall conform to the requirements of Tennessee Code Annotated, Title 62, Chapter 19 et seq. (Auctioneer Licensing Law) and the Rules of the Tennessee Auctioneer Commission.

(Rule 0160-1-.18, continued)

Authority: T.C.A. §§62-19-102 and 62-19-106. **Administrative History:** Original rule filed February 28, 2001; effective May 14, 2001.

0160-1-19 TYPES OF AUCTIONS DEFINED.

- (1) Absolute auction/auction without reserve - An auction at which property put up for sale is sold to the highest bidder, where the seller may not withdraw the property from the auction after the auctioneer calls for bids unless no bid is made in a reasonable time, where the seller may not bid himself or through an agent, and where the seller will deliver marketable title.
- (2) At auction/auction with reserve - An auction at which the seller or his agent reserves the right to establish a minimum bid, to accept or reject any and all bids, and to withdraw the property at any time prior to the completion of the sale by the auctioneer.

Authority: T.C.A. §62-19-106. **Administrative History:** Original rule filed February 28, 2001; effective May 14, 2001.

0160-1-20 ADVERTISING GUIDELINES.

- (1) Advertising in any form that is designed to give notice of an upcoming auction must include the name and license number of the auction firm or gallery responsible for holding the sale.
- (2) False, deceptive, misleading and untruthful advertising is expressly prohibited. Any advertisement or advertising shall be deemed to be false, deceptive, misleading or untruthful, if it:
 - (a) contains a misrepresentation of fact.
 - (b) is misleading or deceptive because in its content or in the context in which it is presented, it makes only a partial disclosure of relevant facts.
 - (c) creates a false or unjustified expectation of the services to be performed.
 - (d) contains any representation or claim that the advertising licensee in bad faith fails to perform.
 - (e) advertises any auction using such descriptive words as "Urgent," "Emergency," "Distress," or any other word which connotes a liquidation of assets or that the buyers will, for some extraordinary reason, be in a position to reap some unusual bargain, without specifically disclosing, the reason that the sale is "urgent," the nature of the "emergency" or the cause of the "distress." In a written advertisement, the reason, nature, and cause shall be set forth in a print size equal to the descriptive word used.
 - (f) advertises any auction using descriptive words such as "Seized," "Confiscated," "Forfeited," or any other word which connotes a governmental action; the sale of items seized or taken by a government department, agency or commission; or that buyers will for some governmental reason be in a position to reap some unusual bargain, without specifically disclosing the exact nature of the governmental action. In a written advertisement, the nature of the governmental action shall be set forth in a print size equal to the descriptive word used.
 - (g) advertises in bad faith an item for sale that the auctioneer, auction firm or gallery does not intend to offer for sale at the auction being advertised.
- (3) Advertising for a sale at which some items will be auctioned with reserve and some items will be auctioned without reserve shall clearly and conspicuously indicate this fact to the public.

(Rule 0160-1-.20, continued)

In written advertisements for such a sale, the font size, style and case of the type used in publicizing the part of the sale is to be held without reserve shall not differ from the font size, style and case used to publicize the part of the sale to be held with reserve.

- (4) Any advertising or advertisement purporting or suggesting that an auction sale is being held in conjunction with or as a result of a bankruptcy proceeding, or that items to be sold at auction were previously purchased in connection with a bankruptcy proceeding shall contain the bankruptcy court case number assigned by the court of jurisdiction for such proceeding.
- (5) An auctioneer, auction firm or gallery shall not permit its name or license number to appear on any advertisement not in compliance with Tennessee Code Annotated, Title 62, Chapter 19 et seq. (Auctioneer Licensing Law) and the Rules of the Tennessee Auctioneer Commission.

Authority: T.C.A. §§62-19-106 and 62-19-118(c)(2). **Administrative History:** Original rule filed February 28, 2001; effective May 14, 2001.

0160-1-.21 DISCLOSURE OF BUYER'S PREMIUM.

- (1) An auctioneer, auction firm or gallery shall disclose the existence and amount of any "buyer's premium," commission, or fee to be charged to buyers at an auction sale. Such disclosure shall be made in all advertising and orally announced immediately prior to the start of an auction.

Authority: T.C.A. §§62-19-106 and 62-19-118(c)(2). **Administrative History:** Original rule filed February 28, 2001; effective May 14, 2001.

0160-1-.22 LATE RENEWAL OF LICENSE.

- (1) A licensee applying to renew a license two (2) months or less after the expiration date thereof shall pay in addition to any fees required for renewal, a penalty of fifty dollars (\$50.00).
- (2) A licensee applying to renew a license more than two (2) months after the expiration date thereof, but less than six months, shall reapply for licensure and pay a penalty of one hundred and fifty dollars (\$150.00).
- (3) A licensee applying to renew a license six months or more after the expiration date thereof, but less than two (2) years, shall reapply for licensure and pay a penalty of two hundred dollars (\$200.00).
- (4) Upon written submission of good cause shown, the Commission may by a majority vote waive any or all of the penalties and requirements in paragraphs 1-3 of this rule, including but not limited to reexamination and additional education requirements; or in lieu thereof impose such other reasonable conditions or requirements as it deems appropriate.
- (5) A licensee delinquent in the renewal of a license for two (2) years or more shall reapply for licensure and satisfy all requirements for obtaining such license.

Authority: T.C.A. §§62-19-106 and 62-19-111. **Administrative History:** Original rule filed February 28, 2001; effective May 14, 2001.

0160-1-.23 RETIREMENT OF LICENSE.

- (1) Upon written request accompanied by the license certificate, pocket card and the appropriate fee as set forth in Rule 0160-1-.14 of these rules, an auctioneer or apprentice auctioneer may retire such auctioneer's or apprentice auctioneer's license.

(Rule 0160-1-.23, continued)

- (2) Only a license that is current and in good standing with the Commission may be retired. For the purposes of T.C.A. § 62-19-112(d) and this rule, “current and in good standing” shall mean the license is valid and unexpired, all applicable fees and any outstanding penalties have been paid by the licensee, the licensee has met all applicable continuing education requirements, and the license is not under any current disciplinary sanction.
- (3) Expired licenses renewed pursuant to Rule 0160-1-. 22 shall be deemed valid and unexpired for the purposes of this rule.
- (4) No contribution to the Education and Recovery Account or continuing education shall be required of a licensee whose license is in retirement.
- (5) A retired license may be activated upon submission to the Commission of a written application, the payment of the appropriate fees as set forth in Rule 0160-1-.14 and proof that the applicant has obtained at least six (6) hours of continuing education in the two year period immediately preceding the date of application.

Authority: T.C.A. §§62-19-106 and 62-19-112(d). **Administrative History:** Original rule filed February 28, 2001; effective May 14, 2001.

0160-1-.24 NOTIFICATION OF CHANGE OF INFORMATION.

- (1) Within sixty (60) days of occurrence, a licensee shall notify the Commission in writing of any change in information previously submitted by the licensee to the Commission. Such information includes but is not limited to the licensee’s business address, auction escrow account data and the employment, termination or resignation of any apprentice.

Authority: T.C.A. §§62-19-106 and 62-19-111. **Administrative History:** Original rule filed February 28, 2001; effective May 14, 2001.